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Fifty-sixth session

SUMMARY RECORD OF THE 1481st MEETING

Held at Headquarters, New York,
on Thursday, 21 March 1996, at 3 p.m.

Chairman: Mr. AGUILAR

later: Mr. BÁN
(Vice-Chairman)

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Spain (continued) (CCPR/C/95/Add.1; HRI/CORE/1/Add.2/Rev.2)

Right to life, liberty and security of person, treatment of detainees and other persons deprived of their liberty and right to a fair trial (arts. 6, 7, 9, 10 and 14 of the Covenant) (section II of the list of issues) (continued)

Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, right of assembly and of association and right to take part in the conduct of public affairs (arts. 12, 13, 17, 18, 21, 22 and 25 of the Covenant) (section III of the list of issues) (continued)

1. At the invitation of the Chairman, Mr. Ibarra, Mr. Borrego and Mr. Zurita (Spain) took places at the Committee table.

2. Mrs. CHANET asked the representatives of Spain to comment on the derogation of rights normally ensured under common law with regard to persons charged with terrorist acts and how the derogation of those rights was justified in the light of articles 9 and 14 of the Covenant. She asked them to discuss specifically the special detention regime described in paragraph 53 of the report, which extended the normal period of detention from three to five days, and the fact that those suspected of terrorism did not have the right to choose their own attorney but were assigned legal counsel and were then judged by a central court which had jurisdiction over the entire country.

3. The Committee had received reports from the Special Rapporteur of the Human Rights Commission and from the European Committee against Torture stating that individuals suspected of terrorism in Spain had been subjected to ill-treatment and torture. She asked what measures the Government had adopted to comply with the recommendations made by the Committee against Torture. She also asked the representatives to comment on reports that members of the police force or Civil Guard who had been convicted of mistreatment of detainees had never served their sentences and had been allowed to remain on the force. She would also welcome comments on reports regarding individuals who had requested and been denied refugee status who had been detained for up to seven days before being sent back to their countries of origin.

4. Lord COLVILLE said that the problem of intimidation of the judiciary existed throughout the world, especially in relation to terrorist violence. He asked the representatives of Spain to discuss the measures being taken to protect investigating magistrates and trial judges dealing with extremely delicate cases involving terrorism.

5. In the case of individuals who had been arrested and charged with committing terrorist acts, he understood that legislation amending the Constitution allowed for an extended period of detention of such persons before

they were brought before the courts. He asked who had the authority to apply for extensions of detention, when such extensions were applied and what legitimate reasons, if any, were given for extended detentions. He inquired whether defendants were told why they were being detained for extended periods, whether the matter was discussed in open court by the magistrate authorized to grant the extension and if so, how the latter took into account sensitive or secret material which often lay behind an application for an extension. In that connection, he inquired whether provision had been made for oversight of the exercise of that judicial authority in the interest of comparing the practice of the courts. Finally, he inquired whether any complaints regarding the extension procedure had been brought before the European Court of Human Rights, and if so, what the outcome had been.

6. The Committee wished to ascertain how Spanish law dealt with confessions obtained during police investigations and interrogations of persons accused of terrorist acts and to what extent those confessions were admissible in court. Since torture or inhumane treatment tended to occur during the police interrogation which led to confessions, it would be useful to know how such confessions were obtained and who bore the burden of proof to demonstrate that they had not been extracted by means of inhumane treatment or torture. The record of custody for detainees should indicate the names or numbers of police in charge of investigations or interrogations in order to deter abuse of power.

7. He inquired further whether security officers were subject to penalties for breach of the law or the disciplinary rules governing security forces with regard to interrogations. If it was the case that prison sentences of less than a year and a day were not served could an officer guilty, for example, of assaulting a prisoner, be given a short sentence that he might never serve? Not only would that outcome send the wrong message to the public but it would enable individuals responsible for the mistreatment of detainees to escape with a minimum or no penalty.

8. Referring to two recent cases of naval conscripts who had not been allowed to register their conscientious objection, he asked the representatives of Spain to comment on the justification for not allowing individuals to exercise their conscientious objection after having commenced their military service.

9. Mr. BUERGENTHAL noted with gratification that Spain was one of the few countries which had incorporated international human rights treaties to a large degree into its domestic legislation. Turning to paragraph 46 of the report, he asked whether the Prisons Inspection Judge was an ordinary judge in a fully independent judiciary and whether disciplinary sanctions could be further appealed. In view of the fact that a detainee did have the right to assistance of a lawyer appointed by the Bar Association he wondered why the provision in article 53 (b) of the report was necessary. He would also like to know whether the detainee had a right to reject his appointed lawyer and request a new one. He would welcome clarification of the Government's perception of the compatibility of the special detention regime with article 14 of the Covenant.

10. Reports from Amnesty International and other sources had reported the case of two Civil Guards convicted in 1994 for the torture of a Basque prisoner and held incommunicado who were pardoned in 1995 by the Council of Ministers and had

apparently since been promoted. He asked the representatives of Spain to comment on the outcome of that case.

11. He asked whether the GAL (Anti-terrorist Liberation Group) matter before the courts had also been the subject of a large-scale parliamentary inquiry. Finally, with regard to paragraph 101 of the report, he asked whether there were any safeguards in Spanish legislation or under the Schengen Agreement, to which Spain was a party to protect individuals against false information being passed on to other countries.

12. Mr. KLEIN, endorsing Lord Colville's comment regarding the treatment of detainees, said that safeguards should be written into the law to ensure that detainees always knew who was conducting the inquiry against them. With respect to medical examination, detainees should be given the right to be treated by doctors from a list agreed upon by the country's professional medical organization similar to the Bar Association in the case of the appointment of attorneys.

13. He wanted a more detailed explanation of the concept of temporary exclusion from civil service, specifically as regarded the status of individuals during the period of exclusion and their eligibility for reinstatement. He would also like to learn more about the theory behind the incommunicado procedure and how the Government had concluded that it was indispensable to combating terrorism. Finally, turning to paragraph 85 of the report regarding compensation by the State for the non-performance of a State obligation to render justice within a reasonable time, he asked how often the provision was implemented in practice.

14. Mr. EL-SHAFEI commended the Government of Spain for the punctuality with which it had fulfilled its reporting obligations.

15. With regard to the question of the treatment of perpetrators of terrorist acts, and specifically to article 13 (3) of the Spanish Constitution which provided for the extradition of convicted terrorists, he stressed that the Covenant, under article 9, did not make a distinction in the treatment of alleged offenders whether or not the offences they had committed were considered to be terrorist acts. Under the terms of the Covenant, in particular article 5 (2), there could be no derogation of the rights of detainees regardless of the offence. Thus, with respect to terrorists, the Government appeared to have enacted what amounted to permanent emergency legislation. He asked the delegation to elaborate on those aspects of Spanish legislation about which the Committee had questions.

16. Finally, article 7 of the Covenant prohibited torture, and cruel, inhumane or degrading treatment or punishment. He asked the delegation to comment on reports received from the European Committee on the Prevention of Torture and Inhuman and Degrading Punishment indicating that incidents of torture and ill-treatment of prisoners continued to occur in Spanish prisons.

17. Ms. EVATT expressed concern regarding the risk of torture and ill-treatment in the interval between arrest and detention and the appearance of the suspect before a judge. She asked the delegation to explain the circumstances in which pre-trial detention could be extended to up to five days and the accused could

be held incommunicado and the compatibility of those provisions with the Covenant. With regard to article 9 (4) of the Covenant, she asked to whom the detainee could apply for a review of the lawfulness of the detention and whether it was subject to review.

18. With regard to the detention of those awaiting trial, she asked that the delegation explain the operation of the system whereby the duration of pre-trial detention was fixed in accordance with the penalty applicable to the offence and what criteria were applied to determine whether the period of pre-trial detention was reasonable. She inquired whether the practice described in paragraph 81 of the report whereby an accused had the right to request an immediate trial after an unreasonably long delay was common and whether such individuals were usually compensated.

19. With regard to the question of torture, she asked the delegation to describe under what circumstances complaints of torture or ill-treatment were verified by an open inquiry, whether the complainant had a right to legal representation, and whether a judicial officer had examined those said to be involved in the complaint. She also sought further information regarding the policy of detaining prisoners, both before trial and following conviction. The allegation had been made that individuals charged with terrorism were dispersed to locations far from their own regions and far from their family. She asked the delegation to comment on the procedure for assigning prisoners to detention sites, specifically with regard to their placement in the Autonomous Communities. Finally, she expressed concern about the situation described in paragraph 92 of the report whereby oral proceedings were allowed to continue in the absence of the accused, especially in cases where imprisonment was ordered for periods up to one year, and if individuals convicted in those circumstances had a readily available means of recourse.

20. Mr. BHAGWATI said that current international human rights norms protected the right to conscientious objection to military service even during the course of such service. He wondered whether the Government of Spain was considering bringing its legislation into line with the prevailing international standards.

21. The special detention regime for organized crime and terrorist offences, described in paragraph 53 of the report (CCPR/C/95/Add.1), and in particular the possibility of incommunicado detention and curtailment of the rights laid down in article 520 of the Criminal Procedure Act, violated articles 7 and 14 of the Covenant. It would be useful to know what criteria were employed by judges to substantiate their decisions as to whether or not to grant a police request for incommunicado detention of the accused.

22. He was extremely concerned over reports of cruel and degrading treatment of prisoners in Spain. Torturers allegedly wore masks to conceal their identities. Those found guilty of such offences were frequently pardoned or received light sentences. The veracity of many of those allegations had been documented by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment and he would welcome information on what if any steps were being taken to implement the Committee's recommendations.

23. He wished to know whether Spain had ratified the 1951 Convention relating to the Status of Refugees. With regard to applicants for refugee status, he would welcome information on the conditions under which aliens were held pending review of their applications, the length of time they were required to wait, the criteria used for evaluating their applications and which authority was responsible for such evaluation.

24. It would be interesting to learn whether training in human rights was provided in military academies and other educational institutions, including schools and colleges.

25. Finally, while preparation of the country's report to the Committee was within the exclusive competence of the national Government, he wondered whether its contents had been disseminated locally and whether it had been brought to the attention of human rights organizations before its submission to the Committee.

26. Mr. BRUNI CELLI said that, despite the fact that Spain had incorporated the Covenant into its national legislation and that torture had been prohibited by both the Constitution and the Penal Code, reports indicated that the practice still persisted. He recognized that terrorism and the high incidence of urban crime provided an incentive for law enforcement authorities to have recourse to torture. The relative impunity of the perpetrators, for which there was a good measure of public support, was a reflection of that reality. Impunity, however, was an assault on the very rule of law and therefore the challenge for Spain was to find ways of combating that phenomenon.

27. Mr. BÁN sought clarification of the way in which confessions obtained under duress were treated by courts in Spain.

28. He welcomed the steps taken by Spain to speed up court proceedings, in keeping with the provisions of article 14 (3) (c) of the Covenant, and to compensate the party in question where there had been undue delay in the proceedings. He wondered, however, whether the separate administrative procedure which had been introduced to speed up the proceedings did not in fact have the opposite effect.

29. Ms. MEDINA QUIROGA said that there was a demonstrable link between the prolongation of detention and the possibility of torture. It must be remembered that the system depended on the conduct of those enforcing it and that there was therefore need for external oversight.

30. Incommunicado detention was a violation of the Covenant in that an application for amparo could not be submitted on a detainee's behalf if the applicant had no firm knowledge of the place or even of the fact of his detention. The denial of the detainee's right to meet privately with his lawyer also made it easier for torture to take place. She gave details of a specific case in which, despite substantiated complaints of cruel treatment, judicial proceedings had dragged on for four years without result. In her view, such a situation was inconsistent with the undoubted progress made by Spain in the field of human rights.

31. Mr. KRETZMER noted that article 14 (3) (d) provided that everyone charged with a criminal offence was entitled to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing. With reference to incommunicado detention, where a person so charged refused the services of the lawyer, he wondered whether he was allowed to lead his own defence.

32. Mr. LALLAH asked whether the practice of pre-trial detention was not really tantamount to preventive detention, which was prohibited by the Covenant. If there was indeed a problem with a certain group of people in Spain, as there was in Northern Ireland, then a solution must be found based on dialogue in order to bring Spain's practice in that area into line with the provisions of the Covenant.

33. Mr. PRADO VALLEJO said that Latin Americans looked upon Spain as a model to be emulated in the field of human rights. However, the numerous reports of torture by Spanish law enforcement authorities, including reports by Amnesty International, were a serious blemish on that image. There seemed to be a wide gulf between legislative provisions in that field and actual practice. Despite the grave problem of Spanish terrorism, such practices as incommunicado detention, the extending of detention to a maximum of five days and the denial of the possibility of meeting privately with one's lawyer were all in violation of article 14 of the Covenant.

34. He would welcome information on the place where applicants for refugee status were held, the criteria used for processing applications, and how applicants were treated while awaiting a decision on their applications.

35. Mr. ANDO asked whether, pursuant to Act No. 5/1992, decisions on the automatic processing of personal data were subject to judicial review. Also, with reference to the proposal to amend the 1984 Conscientious Objection Act as a result of the growth in the number of conscientious objectors, he would welcome clarification of the acceptable criteria for objection and of the procedures for appealing decisions.

36. Mr. FRANCIS noted that the Spanish delegation itself had acknowledged that more than 50 charges had been brought against the security forces following complaints of torture. He wondered whether it might not be useful to employ modern surveillance methods in detention centres in order to reduce the incidence of a practice which was a serious blemish on Spain's human rights record.

37. Mr. IBARRA (Spain), responding to the supplementary questions put by members, recognized that reports of torture and impunity were of grave concern to the Committee. Members should be aware, however, that propaganda was the weapon of choice of terrorists. It was therefore important to examine the source of the numerous reports to which members had alluded. He noted, for example, that the Basque terrorist organization, ETA, had prepared a manual in which members were instructed to immediately complain of torture after their arrest. In addition, many denunciations were made to bodies outside Spain before national remedies had been exhausted or even before recourse had been had to such remedies.

38. He would not claim, however, that all reports of torture were false. The European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, for example, had produced reports on the problem of the ill-treatment of detainees following missions to Spain by the Committee in 1991 and 1994. The reports had been critical of the special detention regime for organized crime and terrorist offences and of the curtailment of the rights of detainees provided for in article 520 (2) (d) of the Criminal Procedure Act.

39. Certainly there was no way to prevent mistreatment of prisoners if such cases were not brought to the attention of the competent authorities. Two cases could be used to illustrate the handling of charges of mistreatment in Spain. In the first case, in which the speaker himself had been one of the lawyers involved in bringing the complaint, the case had been brought before the Association for Human Rights in Vienna. In the interest of ensuring international exposure, the lawyers had chosen that recourse so that it had taken four years to resolve the case. The second case, in June 1994, had led to an ad hoc visit from the Committee against Torture. Despite the fact that there was an election going on at the time, the Spanish authorities had cooperated fully and the Ministry of the Interior had transferred the judge involved despite the risk of bad press during the elections. The new investigating judge had found there was no reasonable ground for the complaints. In a State governed by rule of law and with a functioning judiciary, one must assume that there were no violations of the international Covenant.

40. During detention, a register of all persons coming into contact with the prisoners, government employees or otherwise, was kept. A lawyer was only appointed in cases involving armed groups and terrorism and only for the duration of detention, a maximum of five days. The lawyer was not assigned by the authorities but rather by the competent bar association. That practice had begun because there had in fact been a problem with lawyers chosen by the prisoners sometimes helping transmit information to the terrorist group to which they belonged. However, more efficient policing had meant that it was no longer considered necessary to designate a lawyer for the prisoner in such cases.

41. In Spain, only the judiciary was responsible for the execution of sentences decided by the courts. The Spanish Penal Code tended to avoid short terms of imprisonment (up to two years), preferring to impose other methods of serving a sentence instead of depriving the prisoner of liberty.

42. Spanish law also provided for royal pardons but such pardons were not granted systematically in cases of mistreatment or torture of prisoners. The prosecutor's office and the judiciary first made recommendations to the Government as to who should be pardoned and there had actually been only two such pardons in the past year. Twelve members of the Guardia Civil had been removed from their posts for mistreatment of prisoners and in general, government officers accused of torture or mistreatment were banned from any public role for the duration of their sentence and could also be banned from public office or government employ for a period of 8 to 12 years in addition to other sanctions. In the most serious cases they could be banned indefinitely from employment with the Government. Therefore, although the system could certainly be improved, it was certainly not true that those who tortured or mistreated prisoners did so with impunity.

43. In response to another question, he said that there was no special protection provided for investigating judges or for police officers involved in the fight against terrorism and they were not allowed to hide their identity from the persons they were investigating. The period of detention could only be extended (to a maximum of five days) by the judge in a closed hearing. The judge, after all, had all the information available to him and was directing the investigation and the police. In addition, the procedure of habeas corpus existed in Spain and was functioning well.

44. The delegation had provided documentation on the rich body of jurisprudence relating to the value of confessions made to the police. The Spanish legal model was an investigative rather than an accusatory process and a confession made in custody was not valid unless renewed before the investigating judge and in court. Otherwise, it was simply a statement which required investigation. Registers were kept of all persons who came into contact with the prisoner and those lists were available to the judge. The prisoner was allowed private consultations with his lawyer although that lawyer was not necessarily a lawyer of his choice. The practice of appointing a lawyer, however, had become increasingly rare.

45. Responding to a question about whether or not the crimes of the GAL (Grupos Armados de Liberacion) were being investigated, he stated that the parliament had set up a commission to investigate those crimes but the commission had disbanded in order not to conflict with the investigating judge looking into those matters.

46. The problem of torture and mistreatment must be approached in a spirit of transparency and sincerity since no security administration could be guaranteed to be free of abuses. However, the important question was, were those abuses punished? In Spain, the answer was very definitely, yes. And, the authorities were working hard to prevent the situations which had led to mistreatment. Sincerity of approach had to begin with proper methodology and, when looking at such cases, it was important to distinguish reality from theory.

47. Mr. BORREGO said that Spanish law did not recognize conscientious objectors once the period of military service had begun, because it was felt that the military had to find ways of making use of all those persons called up for service. Regarding the two sailors who had deserted and had invoked the Covenant in their appeal to the European Human Rights Commission, that appeal had been rejected by the Commission.

48. He pointed out that Spain recognized the authority of the European Human Rights Commission and to date not one appeal had been made by representatives of ETA or other affiliated terrorist groups to any of the organs of the European Convention on Human Rights. Only one case had been brought before the Committee Against Torture of the United Nations Convention Against Torture and after an in-depth study of the complaint, the Committee had found that Spain had not violated the Convention.

49. Responding to other questions, he said that all judges in Spain were independent and free of interference from the authorities and all their decisions were subject to the appeals and legal recourse provided for by the

Constitution. As for compensation for excessively long trials, he stated that the criteria for such compensation were those recognized by the European Court of Human Rights. Moreover, on the basis of statistics provided to the Human Rights Commission in Strasbourg, the Spanish process had been found to be valid and effective. Compensation ranged from approximately 100,000 pesetas to several million pesetas and there were some 200 to 300 cases per year.

50. The maximum length of provisional detention was determined by the seriousness of the crime and the possible penalty, but the prisoner was not necessarily detained for the maximum period. The criteria for determining the length of the period of detention were internationally recognized criteria such as the risk of flight or of collusion.

51. In cases where the claimant appearing before a judicial body felt that the trial was unduly long, he could request an immediate end to the delay. A further appeal to the Constitutional Court was possible, but in general the first request was granted. Cases where the courts made a judgement without the defendant being present referred to in paragraph 89 of the report, only arose when the accused was fully aware of the charges against him, had made a written statement, his lawyer was always present, and the prosecutor was aware that he would not appear. Such judgements were allowed in order to prevent an accused from avoiding sentencing or punishment or delaying the trial simply by not appearing before the court. With regard to an accused's right to defend himself, the Constitutional Court had recently ruled that that right did not violate the Covenant and no appeal had been made to the Human Rights Committee or to the Human Rights Tribunal in Strasbourg. That did not mean however that there was no lawyer present. The accused had the right to defend himself but he always had to have a lawyer present in order to provide legal assistance.

52. He pointed out that his delegation's report was made available to non-governmental organizations as soon as it was published by the Committee and added that the Agency for Information Act in its article 47, paragraph 2, provided for legal recourse before the competent administrative tribunals.

53. Mr. IBARRA added that the Spanish penitentiary administration had dealings with some 200 associations but did not accept the credibility of the International Penitentiary Observers since that body had always refused to appear before the Spanish penitentiary authorities. With regard to asylum, he added that the Law of 19 May 1994 provided that a deportation order could be suspended if the United Nations Human Rights Commissioner made a favourable report concerning the request for asylum, and that asylum-seekers could not be detained while their case was being heard.

54. Mr. PRADO VALLEJO pointed out, by way of clarification, that the March 1996 report of Amnesty International confirmed that the perpetrators of the torture reported in Spain had indeed used masks to conceal their identities.

55. Mr. BUERGENTHAL said that he wished to rectify the impression that the Committee believed that massive human rights violations were taking place in Spain - quite the contrary. The problems which had arisen in connection with the struggle against terrorism should not be allowed to overshadow Spain's impressive progress in enforcing respect for human rights. He strongly

supported the addition to the Criminal Code, which criminalized hate crimes. That innovation was consistent with article 20 of the Covenant, and necessary given the transnational nature of such crimes.

56. Mr. KRETZMER said that, while reports citing human rights violations could certainly be used by special interest groups for their own purposes, the delegation of Spain itself had acknowledged that the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was credible. From that report, a pattern of abuse in conducting investigations and leniency towards the perpetrators could be discerned. In the circumstances, institutional measures must be adopted for the prevention, monitoring, investigation and punishment of cases of police brutality and torture. Although the delegation had been very frank and open on such matters in its oral intervention, he would have preferred to see greater transparency in the written report.

57. Mr. PRADO VALLEJO paid tribute to the great progress made in Spain since the previous report, in particular by the abolition of the death penalty. Nevertheless, the questions of racial discrimination, torture and maltreatment of detainees, the duty of the State to investigate and punish such actions, and the question of providing legal assistance to detainees continued to cause concern.

58. Mr. MAVROMMATIS said that Spain had made amazing progress since a democratic regime had been in power. Terrorism was indeed a difficult issue, but precisely because it had made such significant advances in the field of human rights, it was time for Spain to take drastic steps to remove the last vestiges of its former system. The unduly lengthy pre-trial detention of persons suspected of terrorism led to the temptation to use unnecessary force. He was confident that matters would improve when the Government of Spain demonstrated the political will to end those questionable practices through judicial, administrative and disciplinary measures.

59. Ms. MEDINA QUIROGA joined in congratulating the Government of Spain on its progress in the observance of human rights. She recommended that it develop a mechanism for giving effect to the Committee's comments and views on communications and review its legal system in order to bring both law and practice into conformity with articles 7, 9 and 14 of the Covenant. She urged the Spanish Government to continue to deal with its internal conflicts within a framework of law.

60. Mr. KLEIN recommended that, in combating racial discrimination, greater stress should be laid on education at all levels. A thorough review of the legal framework governing ill-treatment and torture, including the procedure for incommunicado detention, was also in order. Spain's legislation on conscientious objection to military service should also be brought into line with the Covenant.

61. Mr. BHAGWATI, while associating himself with the congratulations extended to the Spanish delegation, said he continued to be concerned about the torture and maltreatment of terrorism suspects. The report contained no information on action taken in response to the recommendations made by the European Committee

for the Prevention of Torture. In the next report, he would like to learn more about the justifications for incommunicado detention and the duration of pre-trial detention. He urged the Spanish Government to make future reports public before their submission to the Committee.

62. Mr. ANDO noted that his own country, like Spain, had undergone a complete revision of its legal system after the Second World War, but it had taken many years for people's attitudes to change. In the next report, he would be interested to hear more about the application of the law criminalizing hate crimes and about the law governing conscientious objectors. He had no doubt, however, that Spain was on the right path to further progress in respect for human rights, not only in law but in practice.

63. Mr. Bán (Vice-Chairman) took the Chair.

64. Lord COLVILLE said that, in his view, one of the most significant recent developments in Spain was the establishment of a register of custody, and any further information on the operation of that register would be most welcome.

65. Mrs. CHANET said that while Spain was a truly democratic State, the reports of ill-treatment did have a basis in fact. Just as terrorism was unacceptable in a state of law, the derogation of fundamental human rights was also unacceptable. Although Spain had not registered any reservations in ratifying the Covenant, she believed that it had violated certain provisions of article 14. She reiterated the need for the total elimination of torture.

66. Mr. POCAR said that in its efforts to combat terrorism, Spain must ensure the respect for rights protected under the Covenant. As the logical follow-up to its abolition of the death penalty, the Government of Spain should withdraw its reservation to the Second Optional Protocol.

67. Ms. EVATT urged the Spanish Government to bear in mind the need for transparency when it prepared its next report. She remained concerned about the compatibility of article 9 of the Covenant with the Law concerning special detention. On the other hand, Spain had made substantial progress in the participation of women in the political process, and was to be commended especially for article 10, paragraph 2, of its Constitution.

68. Mr. IBARRA (Spain) reiterated Spain's belief in the rule of law and respect for human rights, and said that it was constantly working to improve in those areas. There was no special legislation in Spain regarding terrorism or preventive detention; both matters were addressed in the Constitution and dealt with in the Criminal Code. The Constitution did provide for the declaration of a state of war, siege or emergency, but that provision had not been invoked since 1978.

69. Some of the legislative reforms recommended by Committee members, such as the law regarding conscientious objection, had been under consideration but had not been completed because of the recent parliamentary elections. The new legislature would attempt to put the Committee's recommendations into practice.

70. The CHAIRMAN expressed his appreciation for the fruitful dialogue which had taken place with the representatives of the Government of Spain. Indeed, the recent elections highlighted the fact that Spain, in the space of 20 years, had become an exemplary modern democracy. The Committee's questions about torture had arisen from the concern that, in a democratic State, even one case of torture was too many. Racial discrimination was emerging as a problem throughout Europe, and if Spain could look back to its own history as a "melting pot", it might gain a new perspective on that issue.

The meeting rose at 6.10 p.m.